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Lands to Indians in severalty

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LANDS TO INDIANS IN SEVERALTY.

MARCH 3, 1879.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SCALES, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 6268.]

The Committee on Indian Affairs, to whom was referred bill H. R. 6268, have had the same under consideration and report the same back with the following amendments, with the recommendation that the bill as amended pass:

The committee refers to the letter of the Commissioner of Indian Affairs, hereto attached, as furnishing all the necessary information as to the purposes of the bill and the reasons why it should pass.

AMENDMENTS.

In section 1, line 6, after the word "order," insert "made in pursuance of law."

In line 10, after the word "reservation," insert "excluding mineral lands."

In line 18, strike out "over" and insert "of," and after the word "age" insert "and over."

Strike out 20th to 25th lines, inclusive, and insert in lieu thereof "to each unmarried child under 18 years of age, living at the time of the approval of this act, or who shall be born within 12 months thereafter, not more than 80 acres."

Add as section 5 the new section in "amendments" to original bill, with this alteration, viz:

In line 1, after the word "twenty," insert "five."

In line 2, after the word "act," insert "or so soon thereafter as the President may deem it expedient."

Add as section 6, section 5 of original bill.

DEPARTMENT OF THE INTERIOR,
Washington, January 27, 1879.

SIR: I have the honor to transmit herewith a copy of a letter dated the 24th instant, from the Commissioner of Indian Affairs, upon the subject of the allotment of lands in severalty to Indians on reservations outside of the Indian Territory and the issuance of patents therefor, with guards, restrictions, and limitations, intended to give perfect and indefeasible title to the occupants of said lands.

A draft of proposed legislation, designed and intended to effect certain needed reforms in the laws regulating allotments and patents of lands to Indians, and the extinguishment of titles thereunder, is herewith presented.

The views of the Indian Office, and the proposed legislation presented, have the full approval of this department, and the subject of the bill is earnestly recommended to the early and favorable action of Congress.

Very respectfully,

C. SCHURZ.

Secretary.

Hon. A. M. SCALES,

Chairman Committee on Indian Affairs, House of Representatives.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 24, 1879.

SIR: In the last annual report of this office a brief reference was made to the importance of giving to the various Indian tribes of the United States a several, uniform, perfect, and indefeasible title to the lands occupied by them.

The insecurity attaching to their settlement upon the various portions of the public domain assigned for their use has, year by year, become more observable, until it appears that all former methods are entirely inadequate to protect the Indians against the encroachments of the whites upon their reservations, or from the acts of the government itself, whenever an active demand is made that the treaty stipulations under which the Indians hold their lands should be abrogated to open the way for white settlements or the active contentions which often arise for the possession of the mineral or timber interests which may exist on their reservations.

The experience of the Indian Department for the past fifty years goes to show that the government is impotent to protect the Indians on their reservations, especially when held in common, from the encroachments of its own people, whenever a discovery has been made rendering the possession of their lands desirable by the whites.

All measures looking to the civilization of the Indians, or to placing them in a condition to become self-supporting, have, therefore, of necessity, failed, owing to the fact that as soon as any material improvements were made on any Indian reservation, the Indians have been removed.

These removals have resulted in discouraging the Indians from making any attempts to improve their condition.

The system of title in common has also been pernicious to them, in that it has prevented individual advancement and repressed that spirit of rivalry and the desire to accumulate property for personal use or comfort which is the source of success and advancement in all white communities.

It was evidently in view of these facts that in many of the more recent treaties provision has been made for allotments in severalty within the tribal reservations, to the Indians belonging thereon. In some of these treaties provision has been made for the issuance of patents either restricted or in fee; but with regard to the major portion of the Indians now occupying reservations, the department has not been authorized by Congress to issue patents; and hence as to this provision the treaties remain inoperative, and the mere fact of an allotment for which no title is given affords the Indians no protection against the encroachments of the whites or a removal by the government.

The restriction heretofore placed upon the sale of lands has been that they should not be alienated, except upon the approval of the deeds by the Secretary or President, and in practice has been of no avail.

Where the fee has been granted by patent, as also in the cases of issuance of the restricted patents, the Indians have, with very few exceptions, owing to their ignorance of the English language and of business forms, particularly with reference to conveyances, fallen victims to the cupidity of the whites, and have practically been defrauded of their lands.

These facts demonstrate the necessity, if the problem of Indian civilization is ever to be solved, or if they are to become self-supporting, of vesting in them and their heirs such a title that they cannot be ousted for a long term of years, either by the government, its citizens, or by voluntary act of the Indians themselves.

This can, in my judgment, be accomplished only by an allotment in all cases in severalty to the Indians of a given number of acres of land within their reservation, with a patent for the same, restricting the right of alienation either by voluntary conveyance, or the judgment, order, or decree of any court, for the period of twenty-five years, and until such time thereafter as the President may see fit to remove the restriction. The lines of the reservations should also be maintained, so that the government can retain its control over them.

By the adoption of such measures in regard to all Indians, except those in the Indian Territory, I am fully convinced that the race can be led in a few years to a condition where they may be clothed with citizenship and left to their own resources to maintain themselves as citizens of the republic.

The evidently growing feeling in the country against continued appropriations for the care and support of the Indians indicates the necessity for a radical change of policy in affairs connected with their lands.

The inefficiency of the old system of a common title, with an agency farm, and a common property in all the productions of the soil, or of the more recent policy of allotments in severalty with a title in fee, has been demonstrated.

Under the allotment system, the Indians in many cases have made rapid and most encouraging improvement. It has broken up old tribal relations, established the individuality of the Indians, created a desire to accumulate property, and to build themselves comfortable homes; but the fact that they have not a title affording them perfect security is a ground of apprehension in the minds of the more intelligent, and a bar to the progress of a major portion of all of the tribes.

For the purpose of carrying into effect the views expressed herein, as also in my annual report, I have had prepared a draft of a bill authorizing the department to allot lands in severalty on all reservations where treaty stipulations exist, in accordance with such stipulations, and in all other cases authorizing the allotment of a certain number of acres to each individual of a given age, and providing also for the issuance of patents therefor in all cases, with restrictions as to the power of alienation, as hereinbefore indicated.

The adoption of the proposed measure by Congress will enable the department to direct the allotment of lands in severalty on all the existing reservations, and also on those to be created hereafter where the Indians are deemed to be advantageously located, and to cause patents to issue restricting absolutely the alienation of the lands for the period of twenty-five years, and until such period thereafter as the President may see fit to remove the restriction.

Supplementing this measure, if adopted by Congress, by the policy of consolidation, as set forth in the bill recently presented to that body for action, all questions connected with the subject of Indian reservations and Indian titles can, within a brief period, be finally settled. With a view to effecting this purpose, I have the honor to submit the draft of said bill, with duplicate copies thereof, and of this report, with the request that the same be transmitted to the chairmen of the Senate and House Committees on Indian Affairs, with a recommendation for favorable action thereon.

Very respectfully, your obedient servant,

E. A. HAYT,
Commissioner.

The honorable the SECRETARY OF THE INTERIOR.

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